

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRENDAN WELCH, and WELCH RACING,

Plaintiffs,

vs.

DAVID WRIGHT, DOUBLE OO SHITSHOW,
CHARITY ET SHACK CHICK, EASON L.
WRIGHTIII, and PAT WRIGHT,

Defendants.

4:23CV3128

MEMORANDUM AND ORDER

Plaintiff Brendan Welch (“Plaintiff”), a non-prisoner, filed a Motion seeking additional time to comply with this Court’s April 24, 2024, order requiring amendment of the complaint (the “Motion”). [Filing No. 34](#). Plaintiff seeks either a six-month extension of time to file an amended complaint or alternatively to stay the case in its entirety until he is released from incarceration. *Id.* As cause for his Motion, Plaintiff submits that because of his recent incarceration he does not have access to the resources necessary to properly amend his complaint and likely will not until his release. *Id.*

As an initial matter, “[w]hile incarcerated individuals do have restricted rights in pursuing civil actions, reasonable alternatives to indefinite stays should be considered before granting a request to stay a matter until a plaintiff’s release from confinement.” [Devine v. Walker](#), No. 4:18-CV-4156, 2021 WL 3625308, at *2 (W.D. Ark. Aug. 16, 2021) (citing [Muhammed v. Warden, Baltimore City Jail](#), 849 F.2d 107, 112 (4th Cir. 1988) (citing [Wimberly v. Rogers](#), 557 F.2d 671, 673 (9th Cir. 1977))). However, this Court need not

consider addressing Plaintiff's request to stay the case, as Plaintiff recently notified the Court of his release, [Filing No. 38](#), rendering his request for a stay as moot.

Moreover, while the Court finds good cause exists to grant Plaintiff additional time to file an amended complaint, due to the amount of time which has already passed since Plaintiff filed his Motion and the overall procedural posture of this case, the Court is not inclined to grant Plaintiff an additional six-months to do so. Plaintiff has been on notice since August 2023, when this Court performed its initial review pursuant to [28 U.S.C. § 1915\(b\)\(2\)](#), that unless amended, his complaint is subject to dismissal due to a multitude of deficiencies. [Filing No. 9 at 6, 20–29](#). As further pointed out in the orders that followed, Plaintiff has been unable to appropriately amend his complaint, sometimes failing to comply with this Court's orders addressing amendment and sometimes clogging the Court's docket with additional motions and filings unrelated to the required complaint amendment. See [Filing No. 23](#), [Filing No. 30](#), and [Filing No. 33](#).

In light of the amount of time this matter has been pending without a properly pleaded complaint, while the Court shall grant Plaintiff an additional 30 days to file an amended complaint that complies with this and the prior orders of this Court, **no further extensions to amend the complaint shall be granted barring exceptional circumstances**. Plaintiff is reminded that unless his complaint is amended, the case will be dismissed in its entirety and the case will be closed.

Finally, in granting this Motion, Plaintiff is again warned:

An amended complaint will supersede, not supplement, all previously filed complaints and supplements. Plaintiff must include all of the claims he wishes to pursue against all individuals named as defendants in this case that he wishes to

proceed against in his amended complaint, without relying upon or incorporating by reference any allegations made in any prior complaint. Plaintiff should be mindful to explain in his amended complaint what each defendant did to him, when and where each defendant did it, and how each defendant's actions harmed him.

IT IS THEREFORE ORDERED that:

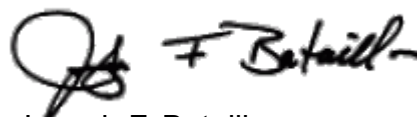
1. Plaintiff's Motion seeking additional time to file an amended complaint, [Filing No. 34](#), is granted in part. Plaintiff has through and until **November 4, 2024**, to file an amended complaint consistent with this order, and this Court's prior orders of August 17, 2023, [Filing No. 9](#), September 7, 2023, [Filing No. 23](#), December 1, 2023, [Filing No. 30](#), and June 24, 2024, [Filing No. 33](#). To the extent Plaintiff seeks a stay of the case, the motion is denied as moot. And to the extent Plaintiff seeks an additional 6-month extension to file an amended complaint, the motion is denied.

2. If Plaintiff fails to file an amended complaint or otherwise respond or seek an extension to do so prior to the expiration of the November 4, 2024, deadline, the matter shall be dismissed without prejudice consistent with this Court's prior orders.

3. The Clerk's Office is instructed to terminate the June 24, 2024, deadline for Plaintiff to amend his Complaint and is directed to set a pro se case management deadline in this case using the following text: **November 4, 2024**: Check for amended complaint.

Dated this 3rd day of October, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", written over a horizontal line.

Joseph F. Bataillon
Senior United States District Court